

operators involved in the transport of interstate commerce, whether they be leased to a carrier, are a small fleet carrier or drive for a small fleet, are a company driver or to any of those drivers who are governed by present regulations that this emergency authority would suspend whether they be regulated or unregulated."

It is the opinion of the owner-operators that the (1) rise in cost of fuel (2) cost of maintaining, servicing and driving their vehicles and (3) cost of complying with Federal regulations forced 20 percent of the owner-operators out of business, and that these are reasons to evoke emergency administrative action.

With respect to log book requirements, the petitioners claim the log books are unwieldy, cost money, are not in the present spirit of paperwork reduction, cannot be complied with, constitute an invasion of individual privacy under the Fifth Amendment, and are unenforceable since thousands of owner-operators as well as other truckers violate the requirements daily and are not investigated.

The petitioners feel that increasing the allowable hours of service they could drive would result in increased revenue. Their figure for the increased revenue is roughly figured at "\$100 per day for one owner-operator; \$20,000 per driver a year; and 4.4 billion dollars per year over the entire industry."

The petitioners feel that the 55 m.p.h. speed limit has hurt the owner-operator especially and that they have suffered due to unfair competitive practices. They also feel that driving conditions have improved over the years due to wider highways, improved roads, and improved vehicles thereby reducing accidents.

Accordingly, comments are respectfully requested on the issues set forth above. The petition is available in its entirety in the public docket and may be reviewed by contacting Mr. Gerald J. Davis of the program office at the address specified above.

With respect to the request that the proposed amendments be acted upon immediately, the Administrative Procedures Act (5 U.S.C. 551 et seq.), Executive Order 12044 (43 FR 12661, Mar. 23, 1978), and agency policy dictate an opportunity for public comment whenever it can be reasonably accomplished. In addition, although the safety implications of the "emergency" action requested are not yet fully understood, they could be significant and need to be evaluated further.

Accordingly, the immediacy of the petition is hereby denied. However, while the immediate nature of the

petitioners' demands is not felt to be justified, the FHWA is still open to considering whether any remedial action is necessary on the basis of the points presented in the petition.

Specifically, comments are requested from motor carriers, company drivers, other owner-operators and the public on the following:

1. The safety effects of expanding the hours of service not to exceed 12 hours in one 24-hour period and no more than 96 hours spent on duty in an 8-day period.

2. The petitioners' suggestion of using a check-off time-in and time-out system on bills of lading for controlling the driver's hours to ensure that limits are not exceeded.

3. The petitioners' financial references set forth in the petition concerning the opinion that increasing the allowable hours of service would generate increased revenue for the industry.

(49 U.S.C. 304 and 1655; 49 CFR 1.48(b) and 301.60)

Issued on: January 14, 1980.

Robert A. Kaye,

Director, Bureau of Motor Carrier Safety.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Withdrawal of Three Expired Proposals for Listing of Nine Species of Fishes and one Species of Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of withdrawal of three expired proposed rules.

SUMMARY: As amended November 10, 1978, the Endangered Species Act mandatorily withdraws proposed rules to list species which have not been finalized within two years of the proposal. The amended Act also authorized a one-year suspension of all withdrawals, until November 10, 1979. The time limits have expired for 9 fishes and one toad and this constitutes notice of their withdrawal.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

Section 4(f)(5) of the Endangered Species Act of 1973, as amended November 10, 1978, states that:

A final regulation adding a species to any list published pursuant to subsection (c) shall be published in the Federal Register not later than two years after the date of publication of notice of the regulation proposing such two year period, the Secretary shall withdraw the proposed regulation and shall publish notice of such withdrawal in the Federal Register not later than 30 days after the end of such period. The Secretary shall not propose a regulation adding to such a list any species for which a proposed regulation has been withdrawn under this paragraph unless he determines that sufficient new information is available to warrant the proposal of a regulation. No proposed regulation for the listing of any species published before the date of the enactment of the Endangered Species Act Amendment of the Endangered Species Act Amendments of 1978 shall be withdrawn under this paragraph before the end of the one-year period beginning on such date of enactment.

The two-year time limit on proposals and one-year period on suspension of withdrawals which were established in this subsection have expired for the three proposed rules indicated below:

- Proposed Threatened status and Critical Habitat for the black toad * * * March 11, 1977 * * * 42 FR 13567-12.
- Proposed Endangered status and Critical Habitat for 4 fishes * * * November 29, 1977 * * * 42 FR 60765-68.
- Proposed Endangered status and Critical Habitat for 5 fishes * * * December 30, 1977 * * * 42 FR 65209-12.

In accord with section 4(f)(5), all species in these proposed rules were withdrawn on November 10, 1979, November 29, 1979 and December 30, 1979 respectively.

This action gives notice of the withdrawal of 9 fishes and one toad. These species occur in the states of Alabama, Arkansas, California, Georgia, North Carolina and Tennessee.

This notice is issued under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.; 87 Stat. 884, 92 Stat. 3751).

The primary author of this notice is Dr. James D. Williams, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1975).

Dated: January 21, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

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